

AMENDED IN SENATE MAY 3, 2004
AMENDED IN SENATE APRIL 22, 2004
AMENDED IN SENATE APRIL 1, 2004
AMENDED IN SENATE MARCH 30, 2004

SENATE BILL

No. 1569

Introduced by Senator Dunn

February 19, 2004

An act to add Section 1393.3 to the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1569, as amended, Dunn. Aggrieved providers: remedies.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. The act requires that a contract between a plan and a provider contain provisions requiring a fast, fair, and cost-effective dispute resolution mechanism and that reimbursement of a complete claim, which is neither contested nor denied, be made within a designated time period.

This bill would authorize an aggrieved provider, as defined, to bring an action, *subject to specified conditions*, against a health care service plan that violates a provision of the act relating to claims processing or payment.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1393.3 is added to the Health and Safety Code, to read:

1393.3. (a) If a health care service plan violates any provision of this chapter relating to claims processing or payment, an aggrieved provider may bring an action against that plan to recover contract damages and statutory interest and penalties and, if appropriate, to obtain injunctive relief. If a court determines that the health care service plan acted without reasonable justification, the court, in its discretion, may award the aggrieved provider costs or reasonable attorney's fees, or both. The remedies under this section shall be in addition to, and not in derogation of, all other rights and remedies that an aggrieved provider may have under any other law.

(b) For the purposes of this section, an "aggrieved provider" means a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or an osteopathic physician and surgeon licensed pursuant to the Osteopathic Initiative Act or a lawfully organized group of those physicians and surgeons or osteopathic physicians and surgeons who meets one of the following conditions:

(1) Contracts directly with the plan alleged to be in violation of this chapter.

(2) Contracts directly with an entity that contracts directly with the plan, the aggrieved provider has provided services to the plan's enrollees on or after January 1, 2005, and the entity has ~~either become insolvent or has not for a period of six months paid all~~ claims.

(3) Has provided emergency medical services covered under an enrollee's plan contract to the enrollee of a plan alleged to be in violation of this chapter and has exhausted all administrative remedies required under this chapter.

(c) If the aggrieved provider is a shareholder, employee, partner, or contractor of a lawfully organized group practice and does not contract directly with the health care service plan or the entity that directly contracts with the health care service plan, the action may be filed only by the group practice and not by its shareholders, employees, partners, or contractors.

1 (d) An aggrieved provider may not maintain a cause of action
2 pursuant to this section if the claim in dispute concerns a service
3 that is excluded as a covered benefit from the terms and conditions
4 of the health care service plan contract or is a disputed health care
5 service for which independent medical review has been requested
6 but not yet completed pursuant to Article 5.55 (commencing with
7 Section 1374.30).

8 (e) Nothing in this section shall be construed to negate a
9 contractual requirement between a plan and an aggrieved provider
10 relating to the exhaustion of *contractual or* administrative
11 remedies, *where applicable*, or to revise or expand the scope of
12 practice of a provider or to revise or expand the types of providers
13 who are authorized to submit claims to, and contract with, a health
14 care service plan.

15 (f) *An aggrieved provider may maintain a cause of action*
16 *pursuant to this section only if the aggrieved provider has*
17 *exhausted internal contractual remedies, where applicable, and*
18 *has pursued its rights pursuant to Section 1367 and regulations*
19 *implementing that section, where applicable.*

